

PROVIDING FOR CONSIDERATION OF H.R. 2436, UNBORN  
VICTIMS OF VIOLENCE ACT OF 1999

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SEPTEMBER 29, 1999.—Referred to the House Calendar and ordered to be printed

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Mrs. MYRICK, from the Committee on Rules,  
submitted the following

REPORT

[To accompany H. Res. 313]

The Committee on Rules, having had under consideration House Resolution 313, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 2436, the “Unborn Victims of Violence Act of 1999,” under a structured rule. The rule provides two hours of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives points of order against consideration of the bill for failure to comply with clause 3(b) of rule XIII (requiring the inclusion in the report of any record votes on a motion to report, or on any amendment to a bill reported from committee). The rule makes in order the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill as an original bill for purpose of amendment, which shall be considered as read.

The rule makes in order only those amendments printed in this report. The rule provides that amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

The rule permits the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce

voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. Finally, the rule provides one motion to recommit with or without instructions.

The waiver of clause 3(b) of rule XIII is necessary because record vote number 4 in the Judiciary Committee's report (H. Rept. 106-332, Part 1) inaccurately reflects the vote of one of the Committee's Members.

#### SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THE RULE

Canady: Brings section 3 of the bill, which amends the Uniform Code of Military Justice, into conformity with that portion of the bill that was reported by the Committee on the Judiciary. Clarifies that the punishment authorized under the bill for intentionally killing or attempting to kill an unborn child is in lieu of, not in addition to the punishment otherwise provided under the bill. Clarifies that the exemption for abortion-related conduct includes situations in which a surrogate decision maker acts on behalf of the pregnant women. (10 Minutes).

Lofgren/Conyers: Amendment in the nature of a substitute. Establishes a new federal crime for any violent or assaultive conduct against a pregnant woman that interrupts or terminates her pregnancy and makes any interruption punishable by a fine and imprisonment up to twenty years but, if the pregnancy is terminated, punishable by a fine and imprisonment up to life. (60 Minutes).

#### TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

##### 1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CANADY OF FLORIDA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 1841 of title 18, United States Code, as proposed to be added by section 2(a)—

(1) in subsection (a)(2)(C), insert “, instead of being punished under subparagraph (A),” after “shall”; and

(2) in subsection (c)(1)—

(A) insert “, or a person authorized by law to act on her behalf,” after “woman”; and

(B) strike “in a medical emergency”.

Strike section 3 and insert the following:

#### **SEC. 3. MILITARY JUSTICE SYSTEM.**

(a) PROTECTION OF UNBORN CHILDREN.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following new section:

##### **“§ 919a. Art. 119a. Protection of unborn children**

“(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

“(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment

provided under this chapter for that conduct had that injury or death occurred to the unborn child's mother.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the accused intended to cause the death of, or bodily injury to, the unborn child.

"(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being punished under subparagraph (A), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

"(c) Nothing in this section shall be construed to permit the prosecution—

"(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

"(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

"(3) of any woman with respect to her unborn child.

"(d) In this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item:

"919a. 119a. Protection of unborn children."

## 2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LOFGREN OF CALIFORNIA, OR REPRESENTATIVE CONYERS OF MICHIGAN, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Motherhood Protection Act of 1999".

### SEC. 2. CRIMES AGAINST A WOMAN—TERMINATING HER PREGNANCY.

(a) Whoever engages in any violent or assaultive conduct against a pregnant woman resulting in the conviction of the person so engaging for a violation of any of the provisions of law set forth in subsection (c), and thereby causes an interruption to the normal course of the pregnancy resulting in prenatal injury (including termination of the pregnancy), shall, in addition to any penalty imposed for the violation, be punished as provided in subsection (b).

(b) The punishment for a violation of subsection (a) is—

(1) if the relevant provision of law set forth in subsection (c) is set forth in paragraph (1), (2), or (3) of that subsection, a fine under title 18, United States Code, or imprisonment not more than 20 years, or both, but if the interruption terminates the pregnancy, a fine under title 18, United States Code, or imprisonment for any term of years or for life, or both; and

(2) if the relevant provision of law is set forth in subsection (c)(4), the punishment shall be the such punishment (other than the death penalty) as the court martial may direct.

(c) The provisions of law referred to in subsection (a) are the following:

(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844 (d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203(a), 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of title 18, United States Code.

(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848).

(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

(4) Sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of title 10, United States Code (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).